



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 9 2009

Rodney Carr, Chairman
Hocking County Republican Party Central Committee
245 North Mulberry Street
Logan, Ohio 43138

RE: MUR 6161
Hocking County Republican Party
Central Committee

Dear Mr. Carr:

On January 27, 2009, the Federal Election Commission (the "Commission") notified the Hocking County Republican Party Central Committee (the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On December 3, 2009, the Commission found, on the basis of the information in the complaint, and information provided by the Committee, that there is no reason to believe the Committee violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cameron Thurber".

J. Cameron Thurber,
Attorney

Enclosure
Factual and Legal Analysis

10044260034

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT:** Hocking County Republican Party
6 Central Committee¹

MUR: 6161

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8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed with the Federal Election Commission
10 ("Commission") by the Hocking County Board of Elections ("HCBE"). See 2 U.S.C.
11 § 437g(a)(1). For the reasons set forth below, the Commission has found no reason to believe
12 that the HCRPCC violated 2 U.S.C. §§ 433 and 434.

13 **II. FACTUAL SUMMARY**

14 The complaint from the HCBE is based on a handwritten complaint that an individual
15 read at an HCBE meeting, and which she asked the HCBE to report to the Commission. The
16 handwritten complaint, which is attached to the HCBE's complaint, states in pertinent part, "[o]n
17 two or more occasions the [HCRPCC] violated Federal and or State Election Laws by placing
18 ads for Federal Candidates in the Logan Daily News. These two occasions being October 2,
19 2008 and October 28, 2008. It is against FEC regulations for a local party to pay for advertising
20 for Federal Candidates." Complaint at 1. The complaint states that the HCBE reviewed the
21 HCRPCC's campaign finance reports, and found "the Republican Party had given a donation of
22 \$1,000 to Fred Dailey, candidate to Congress (18th Congressional)." *Id.* The HCBE states it then
23 voted to send this information to the Commission. The HCBE attached a copy of a page from an

¹ The complaint referred to the entity as the "Hocking County Republican Party," and the response clarified the official name of the organization. We refer to the committee as the HCRPCC throughout this report.

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1 HCRPCC state campaign finance report showing that the HCRPCC contributed \$1,000 to the
2 Dailey for Congress Committee on June 23, 2008.

3 Along with its response as described in the Introduction, the HCRPCC attached copies of
4 the advertisements in question and an affidavit from an employee of the Logan Daily News with
5 supervisory duties concerning billing and accounts, attesting to the costs of the advertisements
6 and the dates they ran. According to these attachments, the first advertisement ("First Ad") ran
7 on October 2, 2008, features the names and photographs of federal candidates John McCain,
8 Sarah Palin and Fred Dailey, and states, "LEADERSHIP we need in Washington."
9 (Capitalization in the original).² See Attachment 1. The cost of the First Ad was \$75, as
10 evidenced by the response and the attached affidavit.

11 The second advertisement ("Second Ad") ran on October 31 and November 3, 2008, and
12 names John McCain, Sarah Palin, Congressional candidate Fred Dailey, and ten local and state
13 candidates at the top, includes the wording "VOTE" (capitalization in the original) twice, "Please
14 take this sample ballot with you to the polls on Tuesday, November 4, 2008 And Vote for These
15 Candidates For Ohio and Hocking County" at the top, and "VOTE NOVEMBER 4th!"
16 (capitalization in the original) at the bottom.³ See Attachment 2. The total cost of the Second Ad
17 was \$216.75 for each of the two days it was run, for a total of \$433.50, according to the affidavit.
18 If we allocate the cost of the Second Ad on a time-space basis, the disbursement for the federal
19

² The HCRPCC's response refers to the advertisements as "slate cards." Under the Commission's regulations, the slate card exemption does not apply to candidate lists that appear in a newspaper. See 11 C.F.R. § 100.80 (stating that the slate card exemption does not apply to the costs of "the preparation and display of listings made on broadcast stations, or in newspapers, magazines, and similar types of general public political advertising"). Therefore, regardless of how the advertisements are characterized, they do not constitute exempt activity.

³ The complaint and response differ slightly on when the Second Ad ran, but we have relied on the affidavit from the newspaper employee on this point.

1 portion of the advertisement was \$72.25 (\$36.13 for each time it ran).⁴ See generally 11 C.F.R.
2 § 106.1(a)(1), (c)(3). Added to the cost of the First Ad, the total amount spent by the HCRPCC
3 for federal candidates in both advertisements was \$147.25.

4 **III. LEGAL ANALYSIS**

5 The HCRPCC meets the definition of a "local committee of a political party" because it
6 appears to be an "organization that by virtue of the by-laws of a political party or the operation of
7 State law is part of the official party structure, and is responsible for the day-to-day operation of
8 the political party at the level of city, county, neighborhood, ward, district, precinct, or any other
9 subdivision of a State." 11 C.F.R. § 100.14(b); see HCRPCC Response at 1 (the HCRPCC states
10 that it is part of the official structure of the Ohio Republican Party). Any local committee of a
11 political party which "makes contributions aggregating in excess of \$1,000 during a calendar
12 year" or "makes expenditures aggregating in excess of \$1,000 during a calendar year" meets the
13 threshold definition for a political committee. 2 U.S.C. § 431(4)(C); 11 C.F.R. §§ 100.5(c),
14 100.14(b). Political committees must file a Statement of Organization with the Commission
15 within 10 days of meeting the threshold definition found in 2 U.S.C. § 431(4)(C) and 11 C.F.R.
16 § 100.5(c), and must thereafter file reports that comply with 2 U.S.C. § 434. 2 U.S.C. §§ 433(a),
17 434(a)(1); see 11 C.F.R. §§ 102.1(d), 104.1(a).

⁴ The advertisement includes twelve blocks of equal size that contain candidate names. See Attachment 2. John McCain and Sarah Palin appeared in one of the twelve blocks together and Fred Dailey appeared in another. The remaining ten blocks contained the names of state and local candidates. There is also a portion at the top of the advertisement and one at the bottom which contain no candidate names. The federal allocation amount is calculated by dividing the cost of one printing of the Second Ad (\$216.75) by the twelve blocks (\$18.06), multiplying by the two blocks containing federal candidates (\$36.13), and multiplying by the two times the advertisement ran, to arrive at a total federal portion of \$72.25. In its response, HCRPCC asserts that the federal allocated portion of the Second Ad was \$25.50 for the portion dedicated to Fred Dailey (\$12.75 for each time it ran) and \$25.50 for the portion dedicated to McCain/Palin (\$12.75 for each time it ran) for a total amount of \$51.00. However, this calculation fails to take into account the proportional federal share of the sections of the advertisement that were dedicated to no particular candidate and, therefore, needed to be divided and apportioned out among all of the listed candidates.

1 The HCRPCC made a \$1,000 contribution to the Dailey Committee on June 23, 2008,
2 and, therefore, any other contributions to federal candidates or committees during 2008 would
3 have put it over the registration and reporting contribution threshold because the Dailey
4 contribution is at, but is not "in excess of," the contribution threshold. 2 U.S.C. § 431(4)(C);
5 11 C.F.R. § 100.5(c). Because there is no allegation or other information suggesting that the
6 advertisements were "made in cooperation, consultation or concert with, or at the request or
7 suggestion of," a candidate, a candidate's authorized committee, or their agents, the costs of the
8 advertisements are not in-kind contributions. 11 C.F.R. §§ 109.20, 109.21(b) (if coordinated, the
9 advertisements would constitute in-kind contributions); *see* HCRPCC Response at 2. Further,
10 even if the disbursements for the advertisements were expenditures, it appears that the costs
11 would fall well below the \$1,000 expenditure threshold. 2 U.S.C. § 431(4)(C); 11 C.F.R.
12 §100.5(c).

13 Therefore, there is no reason to believe no reason to believe that the Hocking County
14 Republican Party Central Committee violated 2 U.S.C. §§ 433 and 434.